



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (“PRA”), the Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget clearance for information collection requirements in its Alternative Fuels Rule (“Rule”). That clearance expires on March 31, 2022.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Paperwork Comment: FTC File No. P134200” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, (202) 326-2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title of Collection: Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles (“Alternative Fuels Rule”), 16 CFR Part 309.

OMB Control Number: 3084-0094.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 6,000 hours.

Estimated Annual Labor Costs: \$175,298.

Non-Labor Costs: \$3,040

Abstract:

The Energy Policy Act of 1992 established federal programs to encourage the development of alternative fuels and alternative fueled vehicles (“AFVs”). Section 406(a) of the Act directed the Commission to establish uniform labeling requirements for alternative fuels and AFVs. 42 U.S.C. 13232(a). Such labels must provide “appropriate information with respect to costs and benefits [of alternative fuels and AFVs], so as to reasonably enable the consumer to make choices and comparisons.” The required labels must be “simple and, where appropriate, consolidated with other labels providing information to the consumer.”

Pursuant to the Act, the Commission published the Alternative Fuels Rule in 1995, and the Rule was later amended in 2013.¹ The Rule requires disclosure of specific information on labels posted on fuel dispensers for non-liquid alternative fuels. To ensure the accuracy of these disclosures, the Rule also requires that sellers maintain records substantiating product-specific disclosures they include on these labels. In addition, the Rule requires that distributors of non-liquid alternative vehicle fuel provide certifications of the fuel rating in each transfer to anyone who is not a consumer.

Burden Estimates:

¹ 78 FR 23832 (April 23, 2013). The final amendments consolidated the FTC’s alternative fueled vehicles (“AFV”) labels with the then new fuel economy labels required by the EPA thereby eliminating the FTC’s separate labeling requirements for used AFV labels.

Annual Hours Burden: 6,000 hours

FTC staff estimates that approximately 20,000 industry participants (non-liquid fuel producers, distributors, and retailers) are subject to the Rule's information collection requirements. The burden estimates for covered entities are detailed below.²

Labeling: Staff estimates that approximately 3,600 covered retailers must revise covered labels annually.³ Staff estimates that affected retailers require approximately one hour each per year for labeling their fuel dispensers for a total of 3,600 hours (3,600 respondents × 1 hour per year).

Recordkeeping: FTC staff estimates that approximately 20,000 industry participants are subject to the Rule's recordkeeping requirements. Staff estimates that covered entities require approximately one-tenth of an hour each per year to comply with these requirements. This yields a burden of 2,000 hours per year (20,000 respondents × 0.1 hours).

Certification: Staff estimates that the Rule's fuel rating certification requirements will affect approximately 400 industry members (compressed natural gas producers and distributors and manufacturers of electric vehicle fuel dispensing systems). Staff anticipates that covered industry participants will spend approximately one hour per year to comply with this requirement for a total of 400 hours (400 respondents × 1 hour per year).

Accordingly, the estimated annual burden under the Rule is 6,000 hours (3,600 + 2,000 + 400).

² It is common practice for alternative fuel industry members to determine and monitor fuel ratings in the normal course of their business activities. This is because industry members must know and determine the fuel ratings of their products in order to monitor quality and to decide how to market them. "Burden" for PRA purposes is defined to exclude effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.2(b)(2). Other factors also limit the burden associated with the Rule. Certification may be a one-time event or require only infrequent revision. Disclosures on electric vehicle fuel dispensing systems may be useable for several years. Nonetheless, there is still some burden associated with posting labels. There also will be some minimal burden associated with new or revised certification of fuel ratings and recordkeeping.

³ Staff estimates that approximately 18,000 retailers are subject to the Rule's labeling requirements. Staff estimates that approximately 20% of covered retailers (3,600) will need to replace their labels annually because many labels remain effective for several years.

Labor Costs: \$175,298

FTC staff derive labor costs by applying appropriate hourly wage figures to the burden hours described above. According to Bureau of Labor Statistics data,⁴ the average compensation for fuel system operators is \$35.49 per hour; and \$12.91 per hour for automotive service attendants. These are factored into the FTC's estimates and assumptions below.

Labeling: Staff assumes that labeling is performed by fuel system operators. Applying relevant labor cost figures to the estimated burden hours for labeling yields an estimated annual labor cost of \$127,764 (3,600 hours × \$35.49).

Recordkeeping: Staff estimates that approximately 1/6 of the total recordkeeping hours are performed by fuel system operators (1/6 of 2,000 hours = approximately 333 hours; 333 hours × \$35.49 = \$11,818) and that automotive service attendants account for the remaining 5/6 of recordkeeping hours (5/6 of 2,000 hours = approximately 1,667 hours; 1,667 hours × \$12.91 = \$21,520). Accordingly, staff estimates that the total labor cost for recordkeeping for affected industry is approximately \$33,338 (\$11,818 + \$21,520).

Certification: Staff assumes that certification is performed by fuel system operators. Estimated associated labor costs would be \$14,196 (400 hours × \$35.49).

Accordingly, the estimated annual labor cost under the Rule is \$175,298 (\$127,764 + \$33,338 + \$14,196).

Non-Labor Costs: \$3,040

Staff believes there are no current start-up costs associated with the Rule, which has been in effect since 1995. Industry members have in place the capital equipment and means necessary to determine automotive fuel ratings and comply with the Rule. Industry members, however, incur the cost of procuring fuel dispenser labels to comply with the Rule.

⁴ The wage estimates in this Notice are based on mean hourly wages found in Table 1. National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2019, at <https://www.bls.gov/news.release/ocwage.t01.htm>. The wage rate for fuel system operators is based on data for "petroleum pump system operators, refinery operators, and gaugers." The wage rate for automotive attendants is based on data for "Automotive and watercraft service attendants."

The estimated annual fuel labeling cost, based on estimates of approximately 8,000 fuel dispensers (assumptions: an estimated 20% of 20,000 total fuel retailers need to replace labels in any given year with an approximate five-year life for labels—i.e., 4,000 retailers—multiplied by an average of two dispensers per retailer) at thirty-eight cents for each label (per industry sources), is \$3,040 ($\$0.38 \times 8,000$).

REQUEST FOR COMMENT

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Write "Paperwork Comment: FTC File No. P134200" on your comment. Your comment, including your name and your state – will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write "Paperwork Comment: FTC File No.

P134200” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov>

website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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